1952.

File No. B. Merged States. 52

K

Legal Dept.
13 BRANCH

Subject:— L. A. Bill No. XX of 1952

A Bill to amend the Bombay Merged States (Laws) Act, 1950

Bom Act No. XII of 1952

P.21 C

File No. B. Merged States (Laws)/52

Gen. 194 e.

871-B

Office of the R.L.A.

A requisite draft Bill is sent herewith.

The subject matter of the Bill falls under entry 5 in List II in the Seventh Schedule to the Constitution The Bill does not require any recommendation or sanction.

Attention of the Local Self Government and Public Health Department is invited to Legal Department U.R. No. 4807, dated 27th March 1951 with which a draft of a Bill to amend the Bombay Merged States (Laws) Act, 1950, has been supplied to the Local Self Government and Public Health Department. That Bill also amends the Bombay District Municipal Act, 1901 and the Bombay Municipal Boroughs Act, 1925, in their application to the former Baroda State. That Bill and the present Bill will have to be consolidated in case it is decided to introduce both the Bill in the next Session of the State Legislature

Sd/- J.R.Dhurandhar

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 8339 dated 26th May 1951.

Laws 913

Office of the R.L.A.

The Jagdish Mills would be entitled to the refund of the terminal tax till the exemption granted to them by the Baroda Government is taken away by legislation. But as suggested by Secretary, Local Self Government and Public Health Department, at page 22 ante, no retrospective effect can be given to such legislation; for such retrospective legislation would affect vested rights and be considered as expropriatory.

Sd/- P.M.Lad

o.c. 7/5

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 7215, dated the 17th May 1952.

Mjr/2/7

4 Cs.

Office of the R.L.A.

The attention of the Local Self Government and Public Health Department is invited to the R.L.A's Opinion No. 7215, dated the 7th May 1952.

The notice in this case has been given by the Mills to the Baroda Municipality. The Government may, therefore, bring to the notice of the Municipality the legal position as stated in R.L.A's opinion referred to above.

Sd/- P.M.Lad

o.c. 20/6

Remembrancer of Legal Affairs.

U.R. to L.S.G. and P.H.D. No. 8500, dated the 21st May 1952.

Mjr/2/7

4 Cs.

Legal Department

The amendments proposed to be moved by Shri Chandrakant C. Mehta, M.L.C., to L.A. Bill No. XX of 1952 (Bombay Merged States (Laws) (Amendment) Bill) are intended to give retrospective effect to the proposed legislation from 1st August 1949, i.e. the date on which the former Baroda State merged in this State.

The Bombay District Municipal Act, 1901, was first extended to the areas of the merged territory of Baroda on 30-7-49 by the Baroda States (Application of Law) Order, 1949, and from that date the Baroda 'A' Class Municipalities Act, 1949, ceased to have effect. Paragraph 5(iii) (b) of the said Order, however, saved the operation of any principle or rule of law or established jurisdiction, form or course of pleading, practice, procedure, privilege, restriction, exemption etc.,,recognised or derived by, in or from any enactment of the merged State, so repealed. It is true that Clause (iv) of the said paragraph provides that such exemption etc., will not be saved if the same was inconsistent with any of the enactments extended to the Baroda State. Both the Bombay District Municipal Act and the Bombay Municipal Boroughs Act provide for the grant of exemption from municipal taxes. It is true that in the case of 'A' class Municipalities in Baroda the power was given to His Highness to grant exemptions. But although the authority for such grant is different the principle of exemption exists in the Act. It was, therefore, held that the exemptions and concessions granted by the former Baroda Government to industries in respect of Municipal taxes under the Baroda 'A' class Municipalities Act being not inconsistent with the provisions of the Bombay District Municipal Act and the Bombay Municipal Boroughs Act have remained unaffected.

unaffected even after the extension of the said Bombay Acts to the merged territory of Baroda.

As the said exemptions and concessions are saved under paragraph 5 of the Baroda State (Application of Laws) Order, 1949, they are valid even to day. In the circumstances, the amendment moved by Shri C.C. Mehta to give retrospective effect from 1-8-49 cannot be accepted. The amendment affects vested rights and would be considered as expropriatory. (vide R.L.A's) Opinion No. 7215, dated 7th May 1952 and Additional Secretary's Opinion No. 11689, dated 15th July 1952).

Sd/- J.R.Dhurandhar

o.c. 16/7

Additional Secretary to Government.

Minister (L.S.G.).

Mjr/3/7

4 Cs.

Legal Department

The request of the Baroda Municipality to make provision in the Bill to make the amendment effective from 1st August 1949 is not tenable. If according to the view taken by the Municipality, the concessions did not survive after 30th July 1949, there was no point in moving the Bill The legal position is that the concessions still continue and therefore in the interest of Municipalities power is being taken to withdraw the concessions.

2. As to giving retsopective effect to the Bill, the question has already been considered by the Remembrancer of Legal Affairs in his opinion No. 7215, dated the 7th May/1952. It has been held therein that no retrospective effect can be given to such legislation, for such retrospective legislation would affect vested rights and be considered as expropriatory.

3. The matter was discussed with the Minister (Local Self Government) who agrees with the above view.

As/- J.R.Dhurandhar

O.C. 14/7

Additional Secretary to Government

U.R. to L.S.G. & P.W.D., No. 11689, dated the 15th July 1952.

Mjr/3/7

4 Cs.

Legal Department.

In the Baroda 'A' Class Municipalities Act, 1949, in section 66(2) (xi) there was a specific provision to the effect that 'A' Class Municipalities were bound by the order passed by the Baroda Government granting any exemption or concession in respect of municipal taxes to any industry. In the "B" Class Municipalities Act, 1949, the section corresponding to the said section 66 was 48, but that section or any other section of the Act did not contain a provision similar to that contained in clause (xi) of sub-section (2) of the said section 66. Hence the position of the concessions, if any, in the former B class Municipalities is different from that of concessions granted under the 'A' Class Municipalities Act. It is possible that the former B Class Municipalities might have given exemptions or concessions under the rules framed by them. Such Municipalities can, therefore, withdraw the exemptions or concessions by amending their rules. the Local Self Government and Public Health Department, however, in its note at pages 7-8 ante proposes to call for information as to which of such former B Class Municipalities have granted such concessions. No further amendment is necessary to the merged States Laws Act and it does not appear that any useful purpose would be served by calling for the information proposed to be callsed for.

Sd/- J.R.Dhurandhar

O.C. 16/7

Additional Secretary to Government.

U.R. to L.S.G. & P.H.D., No. 168-L, dated the 16th July 1952

Mjr/3/7

4 Cs

No. 247-L

Legal Department.
Council Hall, Poona, 29th July 1952.

From :
Shri J.R.Dhurandhar,
Additional Secretary to
the Government of Bombay.

To
The Secretary to the Governor of Bombay.

Subject :- The Bombay Merged States (Laws) (Amendment) Bill, 1952.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for the assent of the Governor the authentic copy of the Bombay Merged States (Laws) (Amendment) Bill, 1952, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 28th June 1952 and the 17th July 1952, respectively.

2. The subject-matter of the Bill falls under entry 5 in List II in the Seventh Schedule to the Constitution of India. It is not necessary to reserve the Bill for the consideration of the President with reference to article 254(2) or any other article of the Constitution of India.

3. The date on which the Governor's assent is given may kindly be ebtnered in the endorsement.

4. I also forward herewith one copy of each of the

1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	:	items Nos.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	:	1,2
3. Bill as read for the third time and passed by the Bombay Legislative Council.	:	and 4
4. Extracts from the proceedings of the Bombay Legislative Assembly dated the 28th June 1952 and of the Bombay Legislative Council dated the 17th July 1952.	:	and two copies

of item No. 3 of the papers noted in the margin. The Bill

Mjr/3/7

4 Cs.

was not referred to a Select Committee.

Yours faithfully,

Sd/- J.R.Dhurandhar
o.c. 28/7

Additional Secretary to Government.

Copy forwarded with compliments to the Secretary to the Government of Bombay, Local Self Government and Public Health Department.

No.. GS. 2350ø

From

The Secretary to the Governor of Bombay

To

The Additional Secretary to Government,
Legal Department,

Subject:- The Bombay Merged States
(Laws)(Amendment) Bill, 19 52

Raj Bhavan,
Ganeshkhind, Poona 7,
July 31, 1952.

Sir,

With reference to your to letter No. 247-L dated July 29, 1952, I am directed to return herewith the authentic copy of the Bombay Merged States (Laws)(Amendment) Bill, 1952, with the Governor's assent signified thereon. The Governor's assent has been given to day.

Yours faithfully,

Sd/-

Secretary to the Governor.

Mjr/3/7
4 Cs.

ACTS

Publication of the Bombay States (Laws)(Amendment) Act, 1952.

GOVERNMENT OF BOMBAY
Legal Department,
Resolution No. 3/14-L
Council Hall, Poona, 2nd August 1952

Letter to the Secretary to the Governor, No. 247-L, dated the 29th July 1952.

Letter from the Secretary to the Governor, No.G.S.2300 dated the 31st July 1952:

"With reference to your letter No. 247-L, dated July 29, 1952, I am directed to return herewith the authentic copy of the Bombay Merged States (Laws)(Amendment) Bill, 1952 , with the Governor's assent signified thereon. The Governor's Assent has been given to-day."

RESOLUTION:- The law should be published as Bombay Act No. XII of 1952 in the Bombay Government Gazette, dated the 4th August 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. Copy of the Act should be forwarded to the Local Self Government and Public Department..

By order of the Governor of Bombay,

Sd/- S,W.Dhurandhar

S.W.DHURANDHAR,
Assistant Secretary to Government

To

The Manager, Government Centrall Press, Bombay (with a cop of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Local Self Government and Public Heal Department).

The Local Self Government and Public Health Department,) With a copy
* The Examiner of Books and Publications,) of the Act.
The Bombay Legislature Department.
The Director of Publicity, Bombay,
The Liaison Officer for the Secretariat, Bombay.

* With four extra copies of the Act.

Mjr/2/7
4 Cs.

Registered No. B-1

The

Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 17TH JUNE 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the Proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XX OF 1952.

A Bill to amend the Bombay Merged States (Laws) Act, 1950.

Bom. IV of 1950. WHEREAS it is expedient to amend the Bombay Merged States (Laws) Act, 1950, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Merged States (Laws) (Amendment) Act, 1952. Short title.

Amendment of third Schedule to Bom. IV of 1950.

2. In the third Schedule to the Bombay Merged States (Laws) Act, 1950,— Bom. IV of 1950.

(*a*) in the entry relating to the Bombay District Municipal Act, 1901 (Bom. III of 1901), in its application to Baroda, in column 3, entries (1) and (2) shall be renumbered as entries (2) and (3), respectively, and before the entry (2) as so renumbered, the following entry shall be inserted, namely :—

"(1) After section 74, the following section shall be inserted, namely :—

Power of Government to withdraw exemption or concession granted in respect of taxes.

'74A. The State Government may at any time by order in writing withdraw any exemption from, or concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the "A" Class Municipalities Act (Baroda Act No. XII of 1949).';

(*b*) in the entry relating to the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925), in its application to Baroda, before the words and figures "In section 118" the brackets and figure "(2)" shall be inserted and before the entry (2) as so numbered, the following entry shall be inserted, namely :—

"(1) After section 103, the following section shall be inserted, namely :—

Power of Government to withdraw exemption or concession granted in respect of taxes.

'103A. The State Government may at any time by order in writing withdraw any exemption from, or any concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the "A" Class Municipalities Act (Baroda Act No. XII of 1949).'"

STATEMENT OF OBJECTS AND REASONS.

The former Baroda Government had sanctioned certain concessions to the industrial concerns in the Baroda State. The concessions were in the form of relief from payment of municipal taxes and were sanctioned for specified periods ranging from five years to twenty-five years. Most of the industrial concerns are still enjoying the concessions. Some of the municipalities, however, are not now in a position to sustain the loss of revenue on account of these concessions and the industrial concerns themselves do not now stand in need of such relief. It is, therefore, proposed to amend the Bombay Merged States (Laws) Act, 1950, so as to empower Government to withdraw the exemptions or concessions granted in respect of municipal taxes by the former Baroda Government. This would also secure uniformity.

Dated the 13th June 1952. (Signed) M. P. PATIL.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 17th June 1952.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XX OF 1952.

A Bill to amend the Bombay Merged States (Laws) Act, 1950.

(As read for the third time and passed by the Legislative Assembly on the 28th June 1952.)

Bom. IV of 1950. WHEREAS it is expedient to amend the Bombay Merged States (Laws) Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Bombay Merged States (Laws) (Amendment) Act, 1952.

MO-V Bk Hb 122

Amendment of third Schedule to Bom. IV of 1950.

2. In the third Schedule to the Bombay Merged States (Laws) Act, 1950,— Bom. IV of 1950.

(*a*) in the entry relating to the Bombay District Municipal Act, 1901 (Bom. III of 1901), in its application to Baroda, in column 3, entries (1) and (2) shall be renumbered as entries (2) and (3), respectively, and before the entry (2) as so renumbered, the following entry shall be inserted, namely :—

" (1) After section 74, the following section shall be inserted, namely :—

Power of Government to withdraw exemption or concession granted in respect of taxes.

' 74A. The State Government may at any time by order in writing withdraw any exemption from, or concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the " A " Class Municipalities Act (Baroda Act No. XII of 1949) '." ;

(*b*) in the entry relating to the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925), in its application to Baroda, before the words and figures " In section 118 " the brackets and figure " (2) " shall be inserted and before the entry (2) as so numbered, the following entry shall be inserted, namely :—

" (1) After section 103, the following section shall be inserted, namely :—

Power of Government to withdraw exemption or concession granted in respect of taxes.

' 103A. The State Government may at any time by order in writing withdraw any exemption from, or any concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the " A " Class Municipalities Act (Baroda Act No. XII of 1949) '."

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Dated the 13th June 1952. M. P. PATIL.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XX OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 28th June 1952.)

A Bill to amend the Bombay Merge States (Laws) Act, 1950.

M.P.

[Shri ~~L. M.~~ PATIL, M.L.A.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XX OF 1952.

A Bill to amend the Bombay Merged States (Laws) Act, 1950.

(As read for the third time and passed by the Legislative Assembly on the 28th June 1952.)

(As read for the third time and passed by the Legislative Council on the 17th July 1952.)

Bom. IV of 1950.

WHEREAS it is expedient to amend the Bombay Merged States (Laws) Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Merged States (Laws) (Amendment) Act, 1952.

MO-VI Bk Hb 144

Amendment of third Schedule to Bom. IV of 1950.

2. In the third Schedule to the Bombay Merged States (Laws) Act, 1950,— Bom. IV of 1950.

(*a*) in the entry relating to the Bombay District Municipal Act, 1901 (Bom. III of 1901), in its application to Baroda, in column 3, entries (1) and (2) shall be renumbered as entries (2) and (3), respectively, and before the entry (2) as so renumbered, the following entry shall be inserted, namely :—

" (1) After section 74, the following section shall be inserted, namely :—

Power of Government to withdraw exemption or concession granted in respect of taxes.

' 74A. The State Government may at any time by order in writing withdraw any exemption from, or concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the " A " Class Municipalities Act (Baroda Act No. XII of 1949) '." ;

(*b*) in the entry relating to the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925), in its application to Baroda, before the words and figures " In section 118 " the brackets and figure " (2) " shall be inserted and before the entry (2) as so numbered, the following entry shall be inserted, namely :—

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' 103A. The State Government may at any time by order in writing withdraw any exemption from, or any concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the " A " Class Municipalities Act (Baroda Act No. XII of 1949) '."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XX OF 1952.]

(As read for the third time and passed by the Legislative Assembly on the 28th June 1952.)

(As read for the third time and passed by the Legislative Council on the 17th July 1952.)

A Bill to amend the Bombay Merged States (Laws) Act, 1950.

[Shri M. P. Patil, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

REGISTERED No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

MONDAY, 4TH AUGUST 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

	PAGES
BOMBAY ACT No. XII OF 1952—An Act to amend the Bombay Merged States (Laws) Act, 1950	50–51

The following Act of the Bombay Legislature having been assented to by the Governor on the 31st July 1952 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XII OF 1952.

(First published, after having received the assent of the Governor, in the "Bombay Government Gazette" on the 4th August 1952.)

An Act to amend the Bombay Merged States (Laws) Act, 1950.

Bom. IV of 1950.

WHEREAS it is expedient to amend the Bombay Merged States (Laws) Act, 1950, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Merged States (Laws) (Amendment) Act, 1952.

Amendment of third Schedule to Bom. IV of 1950.

2. In the third Schedule to the Bombay Merged States (Laws) Act, 1950,— Bom. IV of 1950.

(*a*) in the entry relating to the Bombay District Municipal Act, 1901 (Bom. III of 1901), in its application to Baroda, in column 3, entries (1) and (2) shall be renumbered as entries (2) and (3), respectively, and before the entry (2) as so renumbered, the following entry shall be inserted, namely :—

"(1) After section 74, the following section shall be inserted, namely :—

Power of Government to withdraw exemption or concession granted in respect of taxes.

'74A. The State Government may at any time by order in writing withdraw any exemption from, or concession in respect of, any tax granted to any person by the Government of the former Baroda State by an order issued under the "A" Class Municipalities Act (Baroda Act No. XII of 1949) '." ;

(*b*) in the entry relating to the Bombay Municipal Boroughs Act, 1925 (Bom. XVIII of 1925), in its application to Baroda, before the words and figures "In section 118" the brackets and figure "(2)" shall be inserted and before the entry (2) as so numbered, the following entry shall be inserted, namely :—

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BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.